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Attorneys for National City Commercial Capital Company, LLC

/s/ Frank Peretore, Esq.

Frank Peretore, Esq.

FP #7020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKNATIONAL CITY COMMERCIAL CAPITAL
COMPANY, LLC,

Plaintiff,

vs.

INTERBORO INSTITUTE, INC.,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/21/08

Case Number: 08 CIV 6221

Judge Holwell

ECF CASE

**CONSENT
SCHEDULING ORDER**

This matter having come on by the July 28, 2008 Initial Scheduling Conference Notice And Order ("the Order"), and the parties having cooperated to prepare a Consent Scheduling Order as per the Order's Scheduling Order Requirements, and the parties consenting to this document, and good cause appearing,

IT IS ON THIS _____ day of _____, 2008.

ORDERED, that that the Case Management Plan be as set forth below:

1. Description of Case

a. Plaintiff is represented by Frank Peretore, Esq. and defendant is represented by Gerard

DiConza, Esq. of DiConza Law, P.C.

b. Plaintiff alleges that federal jurisdiction exists due to diversity. The plaintiff is located in Ohio and the defendant is located in New York. Also, the amount sought by plaintiff is well above \$75,000.

c. This is a collection case by plaintiff due to defendant's default in payment pursuant to two leases.

d. Plaintiff contends that it merely need show that defendant defaulted and the amounts due have been accelerated.

e. Plaintiff seeks an award in the amount of \$171,808.68 plus contractual attorneys' fees. It also seeks immediate and permanent title and possession of the equipment which is the subject of the Leases. Defendant denies the amount claimed and that the equipment has not been returned.

f. Defendant's response to Plaintiff's Complaint is due on September 8, 2008.

2. Proposed Case Management Plan

a. There are no pending motions.

b. Cut off date for joinder of additional parties is January 15, 2009 (motion must be filed by that date);

c. Cut off date for amendments to pleadings is January 15, 2009 (motion must be filed by that date);

d. Completion of Discovery as follows:

i. Rule 26(a)(1) disclosures to be completed by September 15, 2008;

ii. Fact discovery completion date is December 15, 2008;

iii. Rule 26(a)(2) disclosures by March 1, 2009;

iv. Expert discovery completion date is March 15, 2009 and delivery of expert reports must be made by March 1, 2009

e. Deadline for filing dispositive motions is February 1, 2009

f. Deadline for pretrial Order is March 30, 2009

g. Trial Schedule as follows:

i. Length of trial – 1 day

ii. Ready for trial by April 15, 2009 (if dispositive motions are decided by then).

3. Consent to Proceed Before Magistrate Judge: Yes.

4. Status of Settlement Discussions

a. None yet. Defense counsel contacted plaintiff's counsel to discuss possible consensual resolution of the matter. Plaintiff's counsel suggested that certain documents be provided to assist in such talks. Defense counsel agreed to provide Plaintiff's counsel with documents in an informal manner in an effort to resolve the action.

b. Plaintiff awaits proposal and documents from defendant.

c. The parties do not request a settlement conference.

PERETORE & PERETORE, P.C.
Attorneys for the Plaintiff

Frank Peretore, Esq.

UNITED STATES DISTRICT JUDGE

DICONZA LAW, P.C.

Attorneys for the Defendant

Gerard DiConza, Esq.